

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

THURSDAY, THE 6TH SEPTEMBER 2007 / 15TH BHADRA 1929

WP(C).No. 5682 of 2007(B)

PETITIONER:

**T.S.BALAKRISHNAN,
THAIVALAPPIL HOUSE, PONALLUR,
KANJANI P.O., THRISSUR.**

**BY ADV. SRI.N.N.SUGUNAPALAN (SR.)
SRI.S.SUJIN**

RESPONDENTS:

- 1. THE SECRETARY,
SPECIAL GRADE, MANALUR GRAMA PANCHAYATH,
P.O.KANDASSANKADAVU, THRISSUR.**
- 2. THE MANALUR GRAMA PANCHAYATH,
REPRESENTED BY ITS SECRETARY, P.O.KANDASSANKADAVU,
THRISSUR.**
- 3. THE GENERAL MANAGER,
DISTRICT INDUSTRIES CENTRE, THRISSUR,
THE CONVENOR, GREEN CHANNEL COMMITTEE,
THRISSUR DISTRICT.**
- 4. STATE OF KERALA, REPRESENTED BY
THE CHIEF SECRETARY TO GOVERNMENT,
GOVT. SECRETARIAT, THIRUVANANTHAPURAM.**
- 5. RADHAKRISHNAN, S/O. SANKARAN,
VISWAMANGALATH, 6/288, MANALUR GRAMA PANCHAYAT,
THRISSUR DISTRICT.**

W.P.(C) NO.5682/2007

ADDL. R6 IMPEADED

- 6. THE POLLUTION CONTROL BOARD,
REP.BY THE ENVIRINMENTAL ENGINEER, THRISSUR.**

**ADDL. 6TH RESPONDENT IS IMPEADED AS PER ORDER DT. 1.3.07 IN
WPC. 5682/07.**

ADDL. R7 IMPEADED

- 7. C.P.ROBIN, S/O.PAVITHRA, CHULLIPARAMBIL HOUSE,
PONNALLUR DESOM, MANALLOOR VILLAGE
TRICHUR TALUK.**

**ADDL. 7TH RESPONDENT IS IMPEADED AS PER ORDER DT. 11.4.07
IN IA. 5343/07.**

**BY ADV. SRI.K.K.JAYASOORIAN
SRI.P.M.KUNJIMOIDEENKUTTY
SRI.P.A.MOHAMMED ASHROF
SRI.LAL K.JOSEPH
SRI.A.A.ZIYAD RAHMAN
SRI.K.P.VIJAYAN
SRI.V.M.SYAM KUMAR
SMT.C.B.SUMA DEVI
SMT.KRIPA ELIZABETH MATHEWS
SRI.V.N.HARIDAS
SRI.N.RAGHURAJ**

BY GOVERNMENT PLEADER SRI.BENJAMIN PAUL

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 06/09/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

W.P.(C) NO.5682/2007

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE PROVISIONAL SSI REGISTRARION CERTIFICATE DT. 5.12.05 ISSUED BY THE ASST.DISTRICT INDUSTRIES OFFICER, THRISSUR TO THE PETITIONER.

EXT.P2:- COPY OF THE PROCEEDINGS OF THE SECRETARY, KERALA KHADI & VILLAGE INDUSTRIES BOARD DT. 10.3.06.

EXT.P3:- COPY OF THE APPLICATION FOR LICENSE DT. 1.2.06 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

EXT.P4:- COPY OF THE LETTER DT. 1.2.06 OF THE PETITIONER ACCOMPANYING EXT.P3 APPLICATION SENT TO THE 1ST RESPONDENT.

EXT.P5:- COPY OF THE PROCEEDINGS OF THE 1ST RESPONDENT DT. 24.4.06.

EXT.P6:- COPY OF THE CONSENT LETTER DT. 11.5.06 ISSUED BY THE KERALA STATE POLLUTION CONTROL BOARD TO THE PETITIONER.

EXT.P7:- COPY OF THE APPLICATION FOR REVIEW DT. 12.5.06 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

EXT.P8:- COPY OF THE RESOLUTION DT. 28.6.06 PASSED BY THE 2ND RESPONDENT PANCHAYATH.

EXT.P9:- COPY OF THE MINUTES TO THE GREEN CHANNEL COMMITTEE MEETING HELD ON 22.1.07.

RESPONDENTS EXHIBITS

EXT.R5(a):- COPY OF THE SKETCH OF THE PROPERTY OF THE PETITIONER.

EXT.R5(b):- COPY OF THE REPORT SUBMITTED BY THE HEALTH INSPECTOR OF MANALUR PRIMARY HEALTH CENTRE DT. 8.3.06.

EXT.R5(c):- COPY OF THE REPORT OF THE TECHNICAL ASSISTANT GRADE II DT. 26.6.06.

EXT.R5(d):- COPY OF THE LETTER SENT BY THE DMO BEARING NO. C6-4176/06 DT. 6.7.05 TO THE 1ST RESPONDENT.

EXT.R5(e):- COPY OF THE RESOLUTION NO.334 DT. 15.11.06 OF THE 2ND RESPONDENT.

EXT.R5(f):- COPY OF THE OBJECTION FILED BY THIS RESPONDENT BEFORE THE GREEN CHANNEL COMMITTEE.

W.P.(C) NO.5682/2007

EXT.R7(a):- COPY OF THE JUDGMENT DT. 5.7.06 IN THE SAID WPC NO.14369/06.

EXT.R7(b):- COPY OF THE ORDER DT. 26.8.06.

EXT.R7(c):- COPY OF THE SAID RESOLUTION DT. 15.11.06 PASSED BY THE MANALUR GRAMA PANCHAYAT.

EXT.R7(d):- COPY OF THE REQUEST DT. 28.11.06.

EXT.R7(e):- COPY OF THE OBJECTION DT. 21.12.06.

EXT.R7(f):- COPY OF THE NOTICE NO.B1-4446/06 DT. 12.12.06.

EXT.R7(g):- COPY OF THE NOTICE DT. 11.1.0-7.

EXT.R7(h):- COPY OF THE MINUTES OF THE GREEN CHANNEL COMMITTEE MEETING HELD ON 22.1.07.

EXT.R7(i):- COPY OF THE MINUTES OF THE SAID FIVE MEMBER JOINT SUB COMMITTEE DT. 16.1.07.

EXT.R7(j):- COPY OF THE LETTER NO.B1-4447/06 DT. 1.2.07.

/TRUE COPY/

P.S. TO JUDGE

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ANTONY DOMINIC, J.

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W.P.(C) No. 5682 OF 2007 B
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Dated this the 6th September, 2007

J U D G M E N T

This writ petition is filed praying for quashing Exts. P5, P8 and P9 and for directing the respondents to issue licence in favour of the petitioner in terms of Ext. P6 consent issued by the Kerala State Pollution Control Board and allow him to start the industrial unit.

2. By Ext. P2 the petitioner had applied to the Panchayat for licence and the same was refused by Ext. P8. Subsequently, on the strength of Ext. P6 consent order of the Pollution Control Board petitioner had filed Ext. P7 application to the Panchayat seeking review of Ext. P5. During the pendency of that application, he had filed W.P.(C) No. 14369 of 2006 which was disposed of by Ext. R7(a) dated 5-7-2006. In that judgment, this Court had taken note of Ext. P8 order whereunder Ext. P7 application for review was rejected. It was ordered that if the petitioner is aggrieved by the said order it will be open to him to

approach the Tribunal for Local Self Government Institutions to seek his remedies. However, he had moved the green channel Committee which was also rejected by Ext. P9 and it is in that context that this writ petition has been filed seeking to quash Exts. P5, P8 and P9.

3. Now it is pointed out by the Counsel for the 5th and 7th respondents that in pursuance to the judgment in W.P.(C) No. 14369/2006, petitioner had filed an appeal against Ext. P8 before the Tribunal and the appeal was disposed of by Ext. R7(b) order remitting the matter to the Panchayat for fresh consideration. It is also stated that in pursuance to the Tribunal's order, the Panchayat re-considered the matter and passed Ext. R5 (e) order dated 15-11-2006 rejecting the application for licence. On this basis the learned counsel for the respondents submits that in the absence of a challenge to R5(e) this writ petition lacks merit. It is also submitted that at any rate the remedy available to the petitioner is to approach the Tribunal for Local Self Government Institutions.

4. I find merit in the submission raised by the

learned counsel for the respondents. Without impugning Ext. R5(e) order dated 15-11-2006 the petitioner cannot get any meaningful relief. Further, if at all the petitioner is to pursue his remedies against Ext. R5(e) the same can be only by filing appeal before the Tribunal for Local Self Government Institutions.

Without prejudice to the rights of the petitioner to pursue his remedies against the impugned orders, including Ext. R5(e) I close this writ petition.

**ANTONY DOMINIC
JUDGE**

jan/-